THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.3429 OF 2006

Dated: 23-02-2006

Between

Y. Chinnapalla, S/o. Yanumula

Venkatappa, Occ: Agriculturist,

R/o. Donnikota, Nallamada Mandal,

Anantapur District.

...PETITIONER

AND

The Commissioner of Land Administration,

Andhra Pradesh, Hyderabad and two others.

...RESPONDENTS

ORDER:

Petitioner seeks a Writ of Certiorari calling for the records relating to the impugned order of the first respondent dated 30.09.2005 passed in Appeal No.BCW.1/436/2002 confirming the order of the second respondent dated 11.06.2002 in his D.Dis.No.(E-2) 2574/2002 canceling the assignment granted in his favour to an extent of Ac.2.00 cents in S.No.506-1 situated at Donnikota Village, Nallamada Mandal, Anantapur District and quash the same as illegal and arbitrary.

Learned counsel for the petitioner submits that the petitioner was assigned D-form patta vide proceedings of the Mandal Revenue Officer in DAR.Dis.No.151/96 dated 30.05.1987 in

respect of

Ac.2.00 cents in S.No.506-1 of Donnikota, Nallamada Mandal, Anantapur District. While so, the MRO submitted a report dated 26.03.2002 to the Revenue Divisional Officer, based on the same the first respondent issued a show cause notice dated 07.05.2002 calling upon the petitioner to explain as to why the regular assignment granted in his shall not be cancelled. Petitioner submitted his explanation dated 28.05.2002 stating that the land in an extent of Ac.2.00 cents was assigned in his favour in S.No.506-1 and thereafter pattadar passbook and title deed was also issued in his favour and when the revenue officials started interfering with his right, he filed a suit in O.S.No.67 of 2002 and obtained interim injunction.

The learned counsel further submits that the explanation submitted by the petitioner has been considered and rejected vide orders in D.Dis.(E2) 2574/2002 dated 11.06.2002 on the ground that, in fact, the petitioner filed an application in File No.151/96 for assignment of the land of Ac.2.00 cents in S.No.569 but in the check memo the land in S.No.506-1 in an extent of Ac.2.00 cents was proposed for assignment and it was further stated that the land in S.No.506 is classified as hill-stream poramboke, which is not

sub-divided and it cannot be assigned and therefore, the D-form patta granted in favour of the petitioner was cancelled. As against the said order petitioner filed an appeal No.BCW.1/436/2002 before the Commissioner of Appeals, Land Administration and the same was dismissed by order dated 30.09.2005.

Though the petitioner raised as many as nine grounds in the said appeal there is no submission with regard to the application made by the petitioner for grant of assignment of land in an extent of Ac.2.00 cents in S.No.506. Thus, it is clear from the records that though the petitioner applied for assignment in S.No.569, the assignment was made in respect of S.No.506-1. It appears that the concerned revenue officials, who assigned the land in S.No.506-1, are also responsible for the fraud played in assigning the said land and therefore, the revenue authorities ought to take steps against the persons who prepared the check memo for issuance of D-form patta in respect Ac.2.00 cents in S.No.506-1 in favour of the petitioner. However, it is open for the petitioner to make another application for assignment of the land in S.No.506-1 and if any land is available in S.No.506-1, the respondents may consider and dispose the same.

It is also further observed that if the land in S.No.506 is sub-divided and re-classified, it is open for the petitioner to file a fresh application for the allotment of the land in question.

The writ petition is dismissed with the above observations.

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V. ESWARAIAH, J

February 23, 2006

DSK